

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS (BOSTON)

SIFREDO SOLA and all others	*	
Similarly situated,		
	*	
Plaintiffs		
v.	*	Civil No. 1:12-cv-10580-JLT
CLEANNET USA, INC., et al.,	*	
Defendants	*	

ANSWER TO FIRST AMENDED CLASS ACTION COMPLAINT

Defendant, CleanNet USA, Inc. (“Defendant” or “CUSA”), for its Answer to the First Amended Complaint (“Complaint”) in the above-captioned matter, through its undersigned counsel, states as follows:

1. Defendant denies the allegations contained in Paragraph 1 of the Complaint.
2. Defendant denies the allegations contained in Paragraph 2 of the Complaint.
3. Defendant denies the allegations contained in Paragraph 3 of the Complaint.
4. In response to the allegations contained in Paragraph 4 of the Complaint, Defendant admits that Plaintiff seeks to bring claims on his own behalf and on behalf of a putative class of allegedly similarly situated persons, but Defendant denies that it has engaged in any wrongful conduct and further denies that Plaintiff is entitled to any relief for himself or others.

PARTIES

5. Defendant lacks knowledge or information sufficient to form a belief as to the allegations contained in Paragraph 5 of the Complaint, and, on that basis, denies same.
6. The first sentence of Paragraph 6 of the Complaint contains Plaintiff’s characterization of the Complaint, to which no response is required. To the extent Plaintiff alleges that

Defendant has committed legal violations, the allegation is denied. Defendant lacks knowledge or information sufficient to form a belief as to the specific information referenced by Plaintiff in the second sentence of Paragraph 6 of the Complaint, and, on that basis, denies same. Further answering, Defendant denies the allegations that Plaintiff or any other person has performed cleaning services for Defendant in Massachusetts and further denies that the putative class meets the requirements of Fed. R. Civ. P. Rule 23.

7. Defendant states that Paragraph 7 of the Complaint contains a conclusion of law to which no response is required.
8. In response to the allegations contained in Paragraph 8 of the Complaint, Defendant states that Paul Oliveira is not a defendant in this lawsuit. Defendant further denies that Oliveira's company, LP&D, Inc., d/b/a CleanNet of New England, is an agent of Defendant.

STATEMENT OF FACTS

A. CleanNet's Unfair and Deceptive Business Practices

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint. By way of further answer, Defendant avers that the remaining paragraphs in the Complaint (Paragraphs 10-12 and 14-69) refers not to CleanNet USA, Inc., but to LP&D, Inc., and therefore, Defendant's denial of the allegations is based on this mischaracterization by Plaintiff.
10. Defendant denies the allegations contained in Paragraph 10 of the Complaint.
11. Defendant denies the allegations contained in Paragraph 11 of the Complaint. By way of further answer, Defendant avers that CleanNet USA has developed a specialized system for franchising of commercial cleaning services, which includes various benefits and services for area operations such as LP&D, Inc.

12. Defendant denies the allegations contained in Paragraph 12 of the Complaint.
13. Defendant denies the allegations contained in Paragraph 13 of the Complaint.
14. Defendant denies the allegations contained in Paragraph 14 of the Complaint.
15. Defendant denies the allegations contained in Paragraph 15 of the Complaint.
16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.
17. Defendant denies the allegations contained in Paragraph 17 of the Complaint.
18. Defendant denies the allegations contained in Paragraph 18 of the Complaint.
19. Defendant denies the allegations contained in Paragraph 19 of the Complaint.
20. Defendant denies the allegations contained in Paragraph 20 of the Complaint.
21. Defendant denies the allegations contained in Paragraph 21 of the Complaint.
22. Defendant denies the allegations contained in Paragraph 22 of the Complaint.
23. Defendant denies the allegations contained in Paragraph 23 of the Complaint.
24. Defendant denies the allegations contained in Paragraph 24 of the Complaint.
25. Defendant denies the allegations contained in Paragraph 25 of the Complaint.
26. Defendant denies the allegations contained in Paragraph 26 of the Complaint.
27. Defendant denies the allegations contained in Paragraph 27 of the Complaint.
28. Defendant denies the allegations contained in Paragraph 28 of the Complaint.
29. Defendant denies the allegations contained in Paragraph 29 of the Complaint.
30. Defendant denies the allegations contained in Paragraph 30 of the Complaint.
31. Defendant denies the allegations contained in Paragraph 31 of the Complaint.
32. Defendant denies the allegations contained in Paragraph 32 of the Complaint.
33. Defendant denies the allegations contained in Paragraph 33 of the Complaint.
34. Defendant denies the allegations contained in Paragraph 34 of the Complaint.
35. Defendant denies the allegations contained in Paragraph 35 of the Complaint.

- 36. Defendant denies the allegations contained in Paragraph 36 of the Complaint.
- 37. Defendant denies the allegations contained in Paragraph 37 of the Complaint.
- 38. Defendant denies the allegations contained in Paragraph 38 of the Complaint.
- 39. Defendant denies the allegations contained in Paragraph 39 of the Complaint.
- 40. Defendant denies the allegations contained in Paragraph 40 of the Complaint.
- 41. Defendant denies the allegations contained in Paragraph 41 of the Complaint.
- 42. Defendant denies the allegations contained in Paragraph 42 of the Complaint.
- 43. Defendant denies the allegations contained in Paragraph 43 of the Complaint.

B. CleanNet's Misclassifications of its Cleaning Workers as Independent Contractors

- 44. Defendant denies the allegations contained in Paragraph 44 of the Complaint.
- 45. Defendant denies the allegations contained in Paragraph 45 of the Complaint.
- 46. Defendant denies the allegations contained in Paragraph 46 of the Complaint.
- 47. Defendant denies the allegations contained in Paragraph 47 of the Complaint.
- 48. Defendant denies the allegations contained in Paragraph 48 of the Complaint.
- 49. Defendant lacks knowledge or information sufficient to form a belief as to the specific information referenced by Plaintiffs in Paragraph 49 of the Complaint, and, on that basis, denies the allegations contained in Paragraph 49 of the Complaint.
- 50. Defendant, denies the allegations contained in Paragraph 50 of the Complaint.
- 51. Defendant lacks knowledge or information sufficient to form a belief as to the specific information referenced by Plaintiffs in Paragraph 51 of the Complaint, and, on that basis, denies the allegations contained in Paragraph 51 of the Complaint.
- 52. Defendant denies the allegations contained in Paragraph 52 of the Complaint.
- 53. Defendant denies the allegations contained in Paragraph 53 of the Complaint.

- 54. Defendant denies the allegations contained in Paragraph 54 of the Complaint.
- 55. Defendant denies the allegations contained in Paragraph 55 of the Complaint.
- 56. Defendant denies the allegations contained in Paragraph 56 of the Complaint.
- 57. Defendant denies the allegations contained in Paragraph 57 of the Complaint.
- 58. Defendant lacks knowledge or information sufficient to form a belief as to the specific information referenced by Plaintiffs in Paragraph 58 of the Complaint, and, on that basis, denies the allegations contained in Paragraph 58 of the Complaint.
- 59. Defendant denies the allegations contained in Paragraph 59 of the Complaint.
- 60. Defendant denies the allegations contained in Paragraph 60 of the Complaint.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

- 61. Defendant lacks knowledge or information sufficient to form a belief as to the specific information referenced by Plaintiffs in Paragraph 61 of the Complaint, and, on that basis, denies the allegations contained in Paragraph 61 of the Complaint.
- 62. Defendant denies the allegations contained in Paragraph 62 of the Complaint.

COUNT I

(Violation of Massachusetts Independent Contractor Law)

- 63. Defendant denies the allegations contained in Paragraph 63 of the Complaint.

COUNT II

(Wage Law Violations)

- 64. Defendant denies the allegations contained in Paragraph 64 of the Complaint.

COUNT III

(Unfair and Deceptive Business Practices)

65. Defendant denies the allegations contained in Paragraph 65 of the Complaint.

COUNT IV

(Misrepresentation)

66. Defendant denies the allegations contained in Paragraph 66 of the Complaint.

COUNT V

(Breach of Contract)

67. Defendant denies the allegations contained in Paragraph 67 of the Complaint.

COUNT VI

(Rescission of Contract)

68. Defendant denies the allegations contained in Paragraph 68 of the Complaint.

COUNT VII

(Unjust Enrichment/Quantum Meruit)

69. Defendant denies the allegations contained in Paragraph 69 of the Complaint.

Defendant further denies that Plaintiff is entitled to any of the relief requested in the Paragraph following Paragraph 69 of the Complaint.

AFFIRMATIVE DEFENSES

As affirmative defenses to the claims asserted by Plaintiff in the Complaint, Defendant avers as follows:

1. Plaintiff's First Amended Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff lacks privity to assert contract claims against Defendant, CleanNet USA.
3. Plaintiff is not an adequate representative under Fed. R. Civ. P. 23 for purposes of representing the class alleged in the First Amended Complaint.

4. The alleged class members' claims lack the necessary common issues of fact for purposes of a class action under Fed. R. Civ. P. 23.

5. Plaintiff has failed to name necessary parties in order for his claims or those of the putative class to be adjudicated.

6. Some or all of Plaintiff's claims are or may be barred by the doctrines of waiver, estoppel, laches, failure to exhaust administrative or contractual remedies and/or limitations of actions.

7. Plaintiff has unclean hands.

8. Plaintiff has failed to mitigate his damages, if any.

WHEREFORE, Defendant, CleanNet USA, Inc., respectfully requests that the Complaint be dismissed, with prejudice and with costs to Defendant, and for such other relief as the Court deems just and proper.

Respectfully submitted,

CLEANNET USA, INC.,

By its attorneys,

/s/ Jenny K. Cooper

Louis A. Rodriques, BBO #424720

louis.rodriques@bingham.com

Jenny K. Cooper, BBO #646860

jenny.cooper@bingham.com

Carolyn B. French, BBO #672923

carolyn.french@bingham.com

BINGHAM MCCUTCHEN LLP

One Federal Street

Boston, MA 02110-1726

617.951.8000- Tel.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to any non-registered participants on June 12, 2012.

/s/ Jenny K. Cooper

Jenny K. Cooper